THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.16568 OF 2005

DATED: 29-07-2005

BETWEEN;

New Moulana Tyre Works,Gandhinagar, Tadepalligudem.

..PETITIONER

VS.

Eastern Power Distribution Company of A.P. rep. By its Chief General Manager, Visakhapatnam and three others.

RESPONDENTS

THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.16568 OF 2005

ORAL ORDER

The petitioner was granted electricity power connection bearing S.C.No.2748 under Category II. A provisional assessment order was passed by the Asst. Divisional Engineer, Tadepalligudem, West Godavari District-4th respondent on 23-09-2000 alleging that the service connection bearing No.2748 was inspected on 18-09-2000 and at the time of inspection it was found that T.C seal was found cut and the meter glass was found slided down into the meter cover and only part of the meter glass was visible. On the allegation that the petitioner had pilfered electricity, the provisional assessment of pilferage was estimated at Rs.1,63,297/- and the petitioner was directed to pay the said amount, pending enquiry, for restoration of power supply.

The petitioner contends that the Superintending Engineer, Eluru-2nd respondent enhanced the provisional assessment amount from Rs.1,63,297/- to Rs.2,17,814/-. Learned counsel for the petitioner submits that so far no final assessment orders have been passed and that the impugned order dated 02-07-2005 directing the petitioner to pay 50% of the

provisional assessment amount so as to arrange restoration of power supply is without jurisdiction. A Division Bench of this Court in Writ Appeal Nos.452 and 477 of 2004, dated 11-03-2004, held that the authorities did not have power to forthwith stop or disconnect electricity while issuing provisional assessment. It was further held that provisional assessment was in the nature of a show cause notice against which the consumer was entitled to have an opportunity of being heard before final orders were passed by the concerned authority and that the notice would be deemed to have been issued only under Section 126 of the Electricity Act under which there was no authority or power to the respondents to discontinue or disconnect electricity supply or call upon the petitioner to pay even part of the provisional assessment amount till final assessment was made. It was further held that only on the consumers not complying with the final assessment, the respondents could proceed further in the matter, which would also be subject to appeal, if any, to be filed by the consumers.

This writ petition is also disposed of in terms of the order of this Court in W.A.Nos.452 and 477 of 2004, dated 11-03-2004. The impugned order dated 02-07-2005 is set aside. This Order, however, shall not preclude the respondents from passing final assessment orders in accordance with law. In case, there are no other arrears due from the petitioner and the only amount allegedly due is towards the provisional assessment order, the respondents shall forthwith restore power supply to the petitioner. No order as to costs.

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RAMESH RANGANATHAN,J

29th JULY 2005

Note

Issue CC

In two days.

(B/O)

*TSNR